

ALVORD AND ALVORD  
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20006-2973

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FAX (202) 393-2156

19813

1995

OF COUNSEL  
URBAN A. LESTER

December 18, 1995

0100899034  
142.00

Mr. Vernon A. Williams  
Secretary  
Interstate Commerce Commission  
Washington, D.C. 20423

Dear Mr. Williams:

Enclosed for recordation pursuant to the provisions of 49 U.S.C. Section 11303(a) are two (2) copies of a Loan and Security Agreement Number 2529, dated December 15, 1995, a primary document as defined in the Commission's Rules for the Recordation of Documents under 49 C.F.R. Section 1177.

The name and address of the party to the enclosed document are:

Debtor: Rail America, Inc.  
301 Yamato Road, Suite 2222  
Boca Raton, FL 33431

Secured Party: Charter Financial, Inc.  
153 East 53rd Street  
New York, NY 10022

A description of the railroad equipment covered by the enclosed document is:

ten locomotives DAKR 81A, DAKR 81C, DAKR 1206, DAKR 1208, OCTR 341, OCTR 346, WTLR 91, WTLR 105, WTLR 113 AND WTLR 118.



Interstate Commerce Commission  
Washington, D.C. 20423-0001

12/18/95

Office Of The Secretary

ROBERT W. Alvord  
918 Sixteenth Street, NW, Ste. 200  
Washington, DC., 20006-2973

Dear Sir:

The enclosed document(s) was recorded pursuant to the provisions of Section 11303 of the Interstate Commerce Act, 49 U.S.C. 11303, on 12/18/95 at 2:20PM, and assigned recordation number(s). 19813 and 17371-A.

Sincerely yours,

Vernon A. Williams  
Secretary

Enclosure(s)

( 0100894033)

\$ 42.00 The amount indicated at the left has been received in payment of a fee in connection with a document filed on the date shown. This receipt is issued for the amount paid and in no way indicates acknowledgment that the fee paid is correct. This is accepted subject to review of the document which has been assigned the transaction number corresponding to the one typed on this receipt. In the event of an error or any questions concerning this fee, you will receive a notification after the Commission has had an opportunity to examine your document.

Signature

Name of Debtor : Rail America, Inc. Name of Secured Party: Charter Financial, Inc.  
Address : 301 Yamato Road, Suite 2222 Address : 153 East 53rd Street  
Boca Raton, FL 33431 New York, NY 10022


(See attached Schedule I for additional Debtors).

Quantity DESCRIPTION OF PERSONAL PROPERTY (Show: Manufacturer, Model No., Serial No., Other Identification)

Various equipment as more fully described on the attached Schedule "A" annexed hereto and made a part hereof.

Location of Equipment: See attached Schedule "A" for equipment locations.

### SCHEDULE OF OBLIGATIONS

Loan Amount ("Unpaid Cash Price Balance")	\$ 1,405,262.00
Documentation Fees (included in Loan Amount)	\$ 5,000.00
Interest ("Finance Charge")	\$ 369,764.00
Time Balance	\$ 1,775,026.00
Term of Loan	Sixty-One Months (61)
Number of Payments	61
Payments Payable	Monthly in Advance <i>ARREARS</i> 
Amount of Each Payment	\$ 27,250.00 (for 60 months) \$ 140,026.00 (61st payment)

Debtor agrees to pay the Time Balance to Secured Party in sixty-one (61) installments commencing on *December 20*, 19*95* and continuing on the *20<sup>th</sup>* day of each month thereafter until and including *December 20*, 20*00*. The first installment shall be in the amount of \$27,250.00, the next fifty-nine (59) installments shall each be in the amount of \$27,250.00 and the last installment shall be in the amount of \$140,026.00.

### ADDITIONAL TERMS AND CONDITIONS

**1. Grant of Security Interest.** Debtor hereby grants to Secured Party a security interest in the personal property described above (hereinafter with all renewals, substitutions and replacements and all parts, repairs, improvements, additions and accessories incorporated therein or affixed thereto referred to as the "Equipment"), together with any and all proceeds thereof and any and all insurance policies and proceeds with respect thereto.

**2. Obligations Secured.** The aforesaid security interest is granted by Debtor as security for (a) the payment of the Time Balance (as set forth in the Schedule of Obligations) and the payment and performance of all other indebtedness and obligations now or hereafter owing by Debtor to Secured Party, of any and every kind of description, arising hereunder or in connection herewith, howsoever evidenced, and any and all renewals and extensions of the foregoing, and all interest, fees, charges, expenses and attorneys' fees accruing or incurred in connection

**16. Consent to Jurisdiction.** Debtor hereby irrevocably consents to the jurisdiction of the courts of the State of New York and of any federal court located in such state in connection with any action or proceeding arising out of or relating to this Agreement or the transactions contemplated hereby. Any such action or proceeding will be maintained in the United States District Court for the Southern District of New York or in any court of the State of New York located in the County of New York and Debtor waives any objections based upon venue or *forum non conveniens* in connection with any such action or proceeding. Debtor consents that process in any such action or proceeding may be served upon it by registered mail directed to Debtor at its address set forth at the head of this Agreement or in any other manner permitted by applicable law or rules of court. Debtor hereby irrevocably appoints Secretary of State of the State of New York as its agent to receive service of process in any such action or proceeding.

**17. Notices.** Notice hereunder shall be deemed given if served personally or by certified or registered mail, return receipt requested, to Secured Party and Debtor at their respective addresses set forth at the head of this Agreement. Any party hereto may from time to time by written notice to the other change the address to which notices are to be sent to such party. A copy of any notice sent by Debtor to Secured Party shall be concurrently sent by Debtor to any assignee of Secured Party of which Debtor his notice.

The Debtor agrees to all the provisions set forth above. This Agreement is executed pursuant to due authorization. DEBTOR ACKNOWLEDGES RECEIPT OF A SIGNED TRUE COPY OF THIS AGREEMENT.

Accepted on December 15 19 95

Date December 6 19 95

**CHARTER FINANCIAL, INC.**  
(Secured Party)

By Stuart Allen VP

Its Vice President  
(Title of Officer)

**RAIL AMERICA, INC.** (Debtor)  
(Signature of Proprietor or name of Corporation or Partnership)

By Samuel J. Luciani

Its CEO  
(if Corporation, President or Vice President should sign and give official title; if Partnership, state partner)

(See attached Schedule I for additional Debtors' signatures)

AD:l-share-dd-railamer-rail.agr

STATE OF ~~TEXAS~~ New York )  
COUNTY OF New York )SS:

On this 6<sup>th</sup> day of December, 1995, before me personally appeared Gary Marino, to me personally known, who, being by me duly sworn, says that he is the President of Kalyn/Siebert, Inc., and that the foregoing Loan and Security Agreement was signed on behalf of said corporation by authority of its Board of Directors. Further, he acknowledged that the execution of the foregoing Loan and Security Agreement was the free act and deed of said corporation.

Heidi H. Smith  
Notary Public

[Notarial Seal]

My commission expires:

2/21/97

HEIDI H. SMITH  
Notary Public, State of New York  
No. 02SM5009737  
Qualified in New York City  
Commission Expires Aug. 21, 1997

STATE OF MINNESOTA )  
COUNTY OF New York )  
SS:

On this 6<sup>th</sup> day of December, 1995, before me personally appeared Gary Marino, to me personally known, who, being by me duly sworn, says that he is the Chief Executive Officer of Dakota Rail, and that the foregoing Loan and Security Agreement was signed on behalf of said corporation by authority of its Board of Directors. Further, he acknowledged that the execution of the foregoing Loan and Security Agreement was the free act and deed of said corporation.

Heidi H. Smith  
Notary Public

HEIDI H. SMITH  
Notary Public, State of New York  
No. 02SM5039737  
Qualified in New York County  
Commission Expires Feb. 21, 1997

[Notarial Seal]

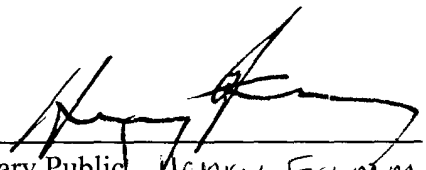
My commission expires:

AD:l-share-dd-railamer-raiminn.notary

STATE OF NEW YORK, COUNTY OF NEW YORK

ss:

On the 15th day of December, 1995 before me personally came Stewart Abramson to me known, who, being by me duly sworn, did depose and say that he is the Vice President of Charter Financial, Inc., the corporation described in and which executed the foregoing instrument; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the board of directors of said corporation, and that he signed his name thereto by like order.

  
\_\_\_\_\_  
Notary Public Henry Frummer  
No. 02FR5039738  
Expires 2/21/97

**Debtors:**      **RailAmerica, Inc.**  
301 Yamato Road, Suite 2222  
Boca Raton, Florida 33431

**Page #1**

**Dakota Rail**  
25 Adams Street  
Hutchinson, Minnesota 55350

**LSA#:2529**

**Kalyn/Siebert, Inc.**  
U.S. Highway 84 West, P.O. Box 487  
Gatesville, Texas 76528

**West Texas and Lubbock Railroad Company, Inc. and**  
**Plainview Terminal Company**  
211 South 6th Street  
Brownfield, Texas 79316

**Secured Party:**      **Charter Financial, Inc.**  
153 E. 53rd Street  
New York, New York 10022

**SCHEDULE "A"**

---

<u>QTY.</u>	<u>MODEL #</u>	<u>DESCRIPTION</u>
<b>Equipment Location:</b> <b>Dakota Rail</b>		
25 Adams Street		
Hutchinson, MN 55350		
2	EMD SW1200	Switchers with Plain Bearing Trucks (#1206 and #1208)
2	EMD F7A	1500HP Road Cab Units (#81A and #81C)
1	#927	Tie Inserter
1	#950	Tie Crane
1		Ballast Regulator
1		Jordan spreader, Plain Journals, Modified Blades
1		Flanger (steam loco tender), Plain Journals, Modified Body
1		1987 Ford Pickup Truck, 4x2
1		1988 Ford Club Cab Pickup Truck with hi-rail gear
1		1992 Dodge Pickup
1		Kiefer Trailer
1		1990 Chevrolet, Hy-Rail Pickup Truck
		All office equipment

**AND ALL ADDITIONS, ATTACHMENTS, ACCESSORIES, SUBSTITUTIONS, REPLACEMENTS, REPAIRS, IMPROVEMENTS, BETTERMENTS AND APPURTENANCES THERETO OF WHATEVER DESCRIPTION OR NATURE, AND ALL PROCEEDS, INCLUDING, WITHOUT LIMITATION, INSURANCE PROCEEDS.**



**Debtors:**      **RailAmerica, Inc.**  
301 Yamato Road, Suite 2222  
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**Page #2**

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25 Adams Street  
Hutchinson, Minnesota 55350

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New York, New York 10022

**SCHEDULE "A"**

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<u>QTY.</u>	<u>MODEL #</u>	<u>DESCRIPTION</u>
<b>Equipment Location:</b> <b>Rail America, Inc.</b> 301 Yamato Road, Suite 2222 Boca Raton, FL 33431		
1	EMD GP-7	1500HP Diesel Locomotive (#341)
1	EMD GP-7	1500HP Diesel Locomotive (#346)
1		Unimog
		All Manchester Computer Equipment
		All Office Max Computer Equipment
 <b>Equipment Location:</b> <b>West Texas and Lubbock Railroad Company, Inc. and</b> <b>Plainview Terminal Company</b> 211 South 6th Street Brownfield, TX 76528		
1	EMD GP-7m #91	
1	EMD GP-7m #105	
1	EMD GP-7m #113	
1	EMD GP-7m #118	
1		Santa Fe RR Caboose
1	Model 2100	Jackson Tamper

**AND ALL ADDITIONS, ATTACHMENTS, ACCESSORIES, SUBSTITUTIONS, REPLACEMENTS, REPAIRS, IMPROVEMENTS, BETTERMENTS AND APPURTENANCES THERETO OF WHATEVER DESCRIPTION OR NATURE, AND ALL PROCEEDS, INCLUDING, WITHOUT LIMITATION, INSURANCE PROCEEDS.**

**Debtors:** RailAmerica, Inc.  
301 Yamato Road, Suite 2222  
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**Secured Party:** Charter Financial, Inc.  
153 E. 53rd Street  
New York, New York 10022

**SCHEDULE "A"**

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<u>QTY.</u>	<u>MODEL #</u>	<u>DESCRIPTION</u>
1		Ballast Regulator
1		1970 Chevrolet C20 Wrecker Truck
1		Case Tractor with Brush Hog Mower
1		Case Tractor, Front End Loader/Backhoe
1		1980 Chevrolet Utility Pick-up Truck
1		1983 Chevrolet Highrail-equipped Pick-up Truck
1		Chevrolet Dump Truck (mid-1960s)
1		Sullair Model Air Compressor
1		Lincoln 200 Amp Stick Welder
1		Rail Drill, Saw, Weed Sprayer, EMD Blomberg
2		Joyce 50 Ton Air Screw Jacks
2		100 Ton Capacity Hydraulic Jacks
		All small tools and equipment
		All office equipment

**Equipment Location:** Kalyn/Siebert, Inc.  
U.S Highway 84 West  
P.O. Box 487  
Gatesville, TX 76528

2	12" Dies
2	2T 24 Phones

**AND ALL ADDITIONS, ATTACHMENTS, ACCESSORIES, SUBSTITUTIONS, REPLACEMENTS, REPAIRS, IMPROVEMENTS, BETTERMENTS AND APPURTENANCES THERETO OF WHATEVER DESCRIPTION OR NATURE, AND ALL PROCEEDS, INCLUDING, WITHOUT LIMITATION, INSURANCE PROCEEDS.**

## SCHEDULE I

Dakota Rail  
25 Adams Street  
Hutchinson, MN 55350

By: 

Title: Chief Executive Officer

Date: December 6, 1995

Kalyn/Siebert, Inc.  
U.S. Highway 84 West  
P.O. Box 487  
Gatesville, TX 76528

By: 

Title: President

Date: December 6, 1995

West Texas and Lubbock Railroad Company, Inc. and  
Plainview Terminal Company  
211 South 6th Street  
Brownfield, TX 79316

By: 

Title: Chief Executive Officer

Date: December 6, 1995

STATE OF ~~TEXAS~~ New York )  
COUNTY OF New York )SS:

On this 6<sup>th</sup> day of December, 1995, before me personally appeared Gary Marino, to me personally known, who, being by me duly sworn, says that he is the President of Kalyn/Siebert, Inc., and that the foregoing Loan and Security Agreement was signed on behalf of said corporation by authority of its Board of Directors. Further, he acknowledged that the execution of the foregoing Loan and Security Agreement was the free act and deed of said corporation.

Heidi H. Smith  
Notary Public

[Notarial Seal]

My commission expires:

2/21/97

HEIDI H. SMITH  
Notary Public, State of New York  
No. 02SM5009727  
Qualified in New York County  
Commission Expires Feb 21, 1997

New York  
STATE OF ~~MINNESOTA~~ )  
COUNTY OF New York )SS:  
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Heidi H. Smith  
Notary Public

HEIDI H. SMITH  
Notary Public, State of New York  
No. 02SM5039737  
Qualified in New York County  
Commission Expires Feb. 21, 1997

[Notarial Seal]

My commission expires:

AD:l-share-dd-railamer-raiminn.notary

STATE OF NEW YORK, COUNTY OF NEW YORK

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Notary Public

Henry Frommer

No. 02FR5039738

Expires 2/21/97

**Debtors:**      **RailAmerica, Inc.**  
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**West Texas and Lubbock Railroad Company, Inc. and**  
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211 South 6th Street  
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**Secured Party:**      **Charter Financial, Inc.**  
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New York, New York 10022

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1		1983 Chevrolet Highrail-equipped Pick-up Truck
1		Chevrolet Dump Truck (mid-1960s)
1		Sullair Model Air Compressor
1		Lincoln 200 Amp Stick Welder
1		Rail Drill, Saw, Weed Sprayer, EMD Blomberg
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STATE OF ~~TEXAS~~ New York )  
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